

## Bureau of Land Management, Interior

## § 3602.43

### COMPETITIVE SALES

#### § 3602.40 Competitive sales.

In addition to the following sections, §§ 3602.41 through 3602.49, the provisions of §§ 3602.11 through 3602.29 also apply to competitive sales.

#### § 3602.41 When will BLM sell mineral materials on a competitive basis?

Except for sales from community pits and common use areas under subpart 3603 of this part, and noncompetitive sales under § 3602.30 *et seq.*, BLM will make sales only after inviting competitive bids through publication and posting under § 3602.42.

#### § 3602.42 How does BLM publicize competitive mineral materials sales?

(a) When offering mineral materials for sale by competitive bidding, BLM:

(1) Will advertise the sale by publishing a sale notice in a newspaper of general circulation in the area where the material is located, on the same day once a week for 2 consecutive weeks; and

(2) Will post a sale notice in a conspicuous place in the office where you will submit bids.

(b) In the sale notice, BLM will state:

(1) By legal description, the location of the tract or tracts on which we are offering the materials;

(2) The kind of materials we are offering;

(3) The estimated quantities of materials we are offering;

(4) The unit of measurement;

(5) The appraised prices;

(6) The time and place for receiving and opening of bids;

(7) The minimum deposit we require;

(8) If the sale is by request, the total cost recovery fee paid to BLM by the applicant up to 21 days before the sale;

(9) The site access that will be available to the purchaser;

(10) The method of bidding;

(11) If applicable, that the purchaser must file mining or reclamation plans;

(12) The bonding requirement;

(13) The location for inspection of contract terms and proposed stipulations;

(14) The address and telephone number of the office where you may obtain additional information;

(15) Whether BLM will renew the contract; and

(16) Any additional information that BLM deems necessary.

(c) BLM may, in its discretion, extend the period of time for advertising;

(d) BLM will not hold sales sooner than 1 week after the last advertisement.

[66 FR 58901, Nov. 23, 2001, as amended at 70 FR 58878, Oct. 7, 2005]

#### § 3602.43 How does BLM conduct competitive mineral materials sales?

(a) The applicant requesting a mineral materials sale must pay a processing fee on a case-by-case basis as described in § 3000.11 of this chapter as modified by the provisions in this section and in § 3602.42(b)(8). The cost recovery process for a competitive mineral materials sale follows:

(1) The applicant requesting the sale must pay the cost recovery fee amount before BLM will publish a sale notice.

(2) Before the contract is issued:

(i) The successful bidder, if someone other than the applicant, must pay to BLM the cost recovery amount specified in the sale notice; and

(ii) The successful bidder must pay all processing costs BLM incurs after the date of the sale notice.

(3) If the successful bidder is someone other than the applicant, BLM will refund to the applicant the amount paid under paragraph (a)(1) of this section.

(b) In conducting a competitive sale, BLM may require submission of sealed written bids, oral bids, or a combination of both. The sale notice will state how you must submit your bid. If 2 or more persons make identical high sealed bids, BLM will determine the highest bid by holding an oral auction among the persons making the identical high bids. If no oral bid is made higher than the sealed bids, BLM will pick the successful bidder by lot. After BLM announces the high bid at an oral auction, if you are the high bidder you must confirm that bid in writing at least by the close of business on the date of the sale, or by such time as BLM may specify in the sale notice.

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(c) When BLM determines that it is in the public interest to do so, we may reject any or all bids, or may waive minor deficiencies in the bids that would not ordinarily affect the outcome of the bidding.

[66 FR 58901, Nov. 23, 2001, as amended at 70 FR 58878, Oct. 7, 2005]

#### § 3602.44 How do I make a bid deposit?

(a) If you wish to make a bid to purchase mineral materials, you must submit a deposit in advance of the sale.

(1) Your sealed bids must contain a deposit.

(2) At an oral auction, you must make your deposit before the opening of the bidding.

(b) Your deposit must be the greater of \$500 or 5 percent of the appraised value as we specify in the sale notice.

(c) Your deposit may be in the form of cash, a money order, a bank draft, or a cashier's or certified check made payable to the Bureau of Land Management.

(d) If you are not the successful bidder, BLM will return your bid deposit when the bidding concludes.

(e) If you are the successful bidder, BLM will apply your deposit to the purchase price.

(f) BLM will charge the successful bidder a processing fee on a case-by-case basis as described in § 3000.11 of this chapter and § 3602.43.

[66 FR 58901, Nov. 23, 2001, as amended at 70 FR 58878, Oct. 7, 2005]

#### § 3602.45 What final steps will BLM take before issuing me a contract?

(a) *Ability to perform.* BLM may require you to furnish information we find necessary to determine whether you are able to meet the obligations of the contract.

(b) *Reasons for denying a contract.* We will deny you the contract, even if you made the highest bid, if—

(1) We determine that you are unable to meet the obligations of the contract,

(2) You are unwilling to accept the terms of the contract, or

(3) BLM rejects all bids.

(c) *Refund of deposit.* If BLM denies you a contract under paragraph (b)(1) or (b)(3) of this section, we will refund your deposit.

(d) *Awarding a contract.* BLM will notify you of your contract award by presenting you with or sending you the contract.

(e) *Accepting a contract.* If BLM awards you the contract, you must, within 60 days after receiving it, sign and return the contract, together with a performance bond and mining and reclamation plan when BLM requires them. BLM may extend this period an additional 30 days if you request it in writing within the first 60-day period. If you fail to sign and return the contract within the first 60-day period, or an approved 30-day extension period, you will forfeit the bid deposit.

(f) *Awarding the contract to the second-highest bidder.* If BLM determines that you are unable to meet the obligations of the contract, or if you fail to sign and return the contract within the time period specified, BLM may offer and award the contract for the amount of the high bid to the person making the next highest complete bid. That person must be qualified and willing to accept the contract, and must re-deposit the amount required under § 3602.44(b).

(g) *Contract form.* BLM will make all sales on BLM standard contract forms approved by the Director, Bureau of Land Management. We will include as necessary additional provisions and stipulations in the contract to conform to the provisions of the competitive sale notice and to address environmental concerns or other site-specific issues.

#### § 3602.46 What is the term of a competitive contract?

The term of the contract will be in the sales notice. BLM will not issue a competitive contract for the sale of mineral materials for a term exceeding 10 years. However, the 10-year period does not include any contract extension under § 3602.27, any contract renewal under § 3602.47, and any periods for removal of equipment and improvements under § 3601.52 of this part.

#### § 3602.47 When and how may I renew my competitive contract and what is the fee?

(a) *Applying for competitive contract renewal.* When you have paid the United